

(3) *Repayment.* Funds provided to an IHA under paragraph (b)(1) of this section for natural and other disasters are not required to be repaid.

**§ 950.608 Eligible costs.**

(a) *General.* An IHA may use financial assistance received under this part for the following eligible costs:

(1) For a CGP IHA, the eligible costs are:

(i) Undertaking activities described in its approved Annual Statement under § 950.656(e) and approved Five-Year Action Plan under § 950.652(e)(5);

(ii) Carrying out emergency work, whether or not the need is indicated in the IHA's approved Comprehensive Plan, including Five-Year Action Plan, or Annual Statement;

(iii) Funding a replacement reserve to carry out eligible activities in future years, subject to the restrictions set forth in paragraph (f) of this section;

(iv) Preparing the Comprehensive Plan and Five-Year Action Plan under § 950.652 and the Annual Submission under § 950.656, including reasonable costs necessary to assist residents to participate in a meaningful way in the planning, implementation and monitoring process; and

(v) Carrying out an audit, in accordance with 24 CFR part 44.

(2) For a CIAP IHA, the eligible costs are activities approved by HUD and included in an approved CIAP budget.

(b) *Demonstration of viability.* Except in the case of emergency work, an IHA shall only expend funds on a development for which the IHA has determined, and HUD agrees, that the completion of the improvements and replacements (for CGP IHAs, as identified in the comprehensive plan) will reasonably ensure the long-term physical and social viability of the development at a reasonable cost (as defined in § 950.102), or for essential non-routine maintenance needed to keep the property habitable until the demolition or disposition application is approved and residents are relocated.

(c) *Physical improvements.* Eligible costs include alterations, betterments, additions, replacements, and non-routine maintenance that are necessary to meet the modernization and energy

conservation standards prescribed in § 950.610. These mandatory standards may be exceeded when the IHA (and HUD in the case of CIAP IHAs) determine that it is necessary or highly desirable for the long-term physical and social viability of the individual development. Development specific work includes work items that are modest in design and cost, but still blend in with the design and architecture of the surrounding community by including amenities, quality materials and design and landscaping features that are customary for the locality and culture. The Field Office has the authority to approve nondwelling space where such space is needed to administer, and is of direct benefit to, the Public and Indian Housing Program. If demolition or disposition is proposed, an IHA shall comply with subpart M of this part. Additional dwelling space may be added to existing units.

(d) *Turnkey III developments.* (1) *General.* Eligible physical improvement costs for existing Turnkey III developments are limited to work items that are not the responsibility of the homebuyer families *and* that are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, or LBP testing, interim containment, professional risk assessment and abatement. In addition, management improvements are eligible costs.

(2) *Ineligible costs.* Routine maintenance or replacements, and items that are the responsibility of the homebuyer families are ineligible costs.

(3) *Exception for vacant or non-homebuyer-occupied Turnkey III units.* (i) Notwithstanding the requirements of paragraph (d)(1) of this section, an IHA may substantially rehabilitate a Turnkey III unit whenever the unit becomes vacant or is occupied by a non-homebuyer family in order to return the unit to the inventory or make the unit suitable for homeownership purposes. An IHA that intends to use funds under this paragraph must identify in its CIAP Application or CGP Annual Submission the estimated number of units proposed for substantial rehabilitation and subsequent sale. In addition, an IHA must demonstrate that it has

homebuyers who both are eligible for homeownership, in accordance with the requirements of this part, and have demonstrated their intent to be placed into each of the Turnkey III units proposed to be substantially rehabilitated.

(ii) Before an IHA may be approved for substantial rehabilitation of a unit under this paragraph (d), it must first deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRM) pertaining to the unit, and request the maximum amount of operating subsidy. Any increase in the value of a unit caused by its substantial rehabilitation under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its selling price.

(e) *Demolition and conversion costs.* Eligible costs include:

(1) Demolition of dwelling units or non-dwelling facilities, where the demolition is approved by HUD under subpart M of this part, and related costs, such as clearing and grading the site after demolition and subsequent site improvement to benefit the remaining portion of the existing development; and

(2) Conversion of existing dwelling units to different bedroom sizes or to non-dwelling use.

(f) *Replacement reserve costs (for CGP only).* (1) Funding a replacement reserve to carry out eligible activities in future years is an eligible cost, subject to the following restrictions:

(i) Annual CGP funds are not needed for existing needs, as identified by the IHA in its needs assessments; or

(ii) A physical improvement requires more funds than the IHA would receive under its annual formula allocation; or

(iii) A management improvement requires more funds than the IHA may use under its 20% limit for management improvements (except as provided in paragraph (n)(2)(i) of this section), and the IHA needs to save a portion of its annual grant, in order to combine it with a portion of subsequent year(s) grants to fund the work item.

(2) The IHA shall invest replacement reserve funds so as to generate a return equal to or greater than the average 91-day Treasury bill rate.

(3) Interest earned on funds in the replacement reserve will not be added to the IHA's income in the determination of an IHA's operating subsidy eligibility, but must be used for eligible modernization costs.

(4) To the extent that its annual formula allocation and any unobligated balances of modernization funds are not adequate to meet emergency needs, an IHA must first use its replacement reserve, where funded, to meet emergency needs, before requesting funds from the reserve under § 950.606.

(5) An IHA is not required to use its replacement reserve for natural and other disasters.

(g) *Management improvement costs.* (1) *General.* Management improvements that are development-specific or IHA-wide in nature are eligible costs where needed to upgrade the operation of the IHA's developments, sustain physical improvements at those developments or correct management deficiencies. An IHA's ongoing operating expenses are ineligible management improvement costs. For CIAP IHAs, management improvements may be funded as a single work item.

(2) *Eligible costs.* Eligible costs include:

(i) *General management improvement costs.* Eligible costs include general management improvement costs, such as: management, financial, and accounting control systems of the IHA; adequacy and qualifications of IHA personnel, including training; resident programs and services through the coordination of the provision of social services from tribal or local government or other public and private entities; resident and development security; resident selection and eviction; occupancy; rent collection; maintenance; and equal opportunity.

(ii) *Economic development costs.* Eligible costs include job training for residents and resident business development activities, for the purpose of carrying out activities related to the modernization-funded management and physical improvements. HUD encourages IHAs, to the greatest extent feasible, to hire residents as trainees, apprentices, or employees to carry out the modernization program under this part, and to contract with resident-

owned businesses for modernization work.

(iii) *Resident management costs.* Eligible costs include technical assistance to a resident council or resident management corporation (RMC), as defined in § 950.962, in order to: determine the feasibility of resident management to carry out management functions for a specific development or developments; train residents in skills directly related to the operations and management of the development(s) for potential employment by the RMC; train RMC board members in community organization, board development, and leadership; and assist in the formation of an RMC.

(iv) *Resident homeownership costs.* Eligible costs are limited to the study of the feasibility of converting rental to homeownership units and the preparation of an application for conversion to homeownership or sale of units.

(v) *Preventive maintenance system.* Eligible costs include the establishment of a preventive maintenance system or improvement of an existing system. A preventive maintenance system must provide for regular inspections of building structures, systems and units and determine the applicability of work eligible for operating funds (routine maintenance) and work eligible for modernization funding (non-routine maintenance).

(h) *Drug elimination costs.* Eligible costs include drug elimination activities involving management or physical improvements, as specified by HUD.

(i) *LBP costs.* Eligible costs include professional risk assessments and interim containment of family developments/buildings constructed before 1980, testing and abatement of family developments/buildings constructed before 1978, and costs for insurance coverage for pollution hazards associated with the testing, abatement, clean-up and disposal of LBP on applicable surfaces of family developments/buildings constructed before 1978.

(j) *Administrative costs.* Administrative costs necessary for the planning, design, implementation and monitoring of the physical and management improvements are eligible costs and include the following:

(1) *Salaries.* The salaries of non-technical and technical IHA personnel assigned full-time or part-time to modernization are eligible costs only where the scope and volume of the work are beyond that which could be reasonably expected to be accomplished by such personnel in the performance of their non-modernization duties. An IHA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full- or part-time staff (e.g., to the CIAP, CGP or operating budget);

(2) *Employee benefit contributions.* IHA contributions to employee benefit plans on behalf of non-technical and technical IHA personnel are eligible costs in direct proportion to the amount of salary charged to the CIAP or CGP, as appropriate;

(3) *Preparation of CIAP or CGP required documents.*

(4) *Resident participation.* Eligible costs include those associated with ensuring the meaningful participation of residents in the development of the CIAP application or the CGP Annual Submission and Comprehensive Plan and the implementation and monitoring of the approved modernization program; and

(5) *Other administrative costs,* such as telephone and facsimile, as specified by HUD.

(k) *Audit costs (for CGP only).* Eligible costs are limited to the portion of the audit costs that are attributable to the modernization program.

(l) *Architectural/engineering and consultant fees.* Eligible costs include fees for planning, identification of needs, detailed design work, preparation of construction and bid documents and other required documents, LBP professional risk assessments and testing, and inspection of work in progress.

(m) *Relocation costs.* Eligible costs include relocation and other assistance for permanent and temporary relocation, as a direct result of rehabilitation, demolition or acquisition for a modernization-funded activity, where this assistance is required by 49 CFR part 24 or 24 CFR 950.117.

(n) *Cost limitations.* (1) *CIAP costs.* (i) *Management improvement costs.* Management improvement costs shall not exceed a percentage of the CIAP funds

available to a Field Office in a particular FFY, as specified by HUD.

(ii) *Planning costs.* Planning costs are costs that are incurred before HUD approval of the CIAP application and that are related to developing the CIAP application or carrying out eligible modernization planning, such as detailed design work, preparation of solicitations, and LBP professional risk assessment and testing. Planning costs may be funded as a single work item. If an IHA incurs planning costs without prior HUD approval, an IHA does so with the full understanding that the costs may not be reimbursed upon approval of the CIAP application. Planning costs shall not exceed 5 percent of the CIAP funds available to a Field Office in a particular FFY.

(2) *CGP costs.* (i) *Management improvement costs.* Notwithstanding the full fungibility of work items, an IHA shall not use more than a total of 20 percent of its annual grant for management improvement costs in account 1408, unless specifically approved by HUD.

(ii) *Administrative costs.* Notwithstanding the full fungibility of work items, an IHA shall not use more than a total of 10 percent of its annual grant on administrative costs in account 1410, excluding any costs related to lead-based paint or asbestos testing (whether conducted by force account employees or by a contractor), in-house architectural/engineering (A/E) work, or other special administrative costs required by tribal or State law, unless specifically approved by HUD.

(3) *Program benefit.* Where the physical or management improvement, including administrative cost, will benefit programs other than Indian housing, such as Section 8 or local revitalization programs, eligible costs are limited to the amount directly attributable to the Indian housing program.

(4) *No duplication.* Any eligible cost for an activity funded by CIAP or CGP shall not also be funded by any other HUD program.

(o) *Ineligible costs.* Ineligible costs include:

- (1) Luxury improvements;
- (2) Indirect administrative costs (overhead), as defined in OMB Circular A-87;

(3) Indian housing operating assistance;

(4) Direct provision of social services, through either force account or contract labor, from FFY 1996 and future FFYs funds, unless otherwise provided by law; and

(5) Other ineligible activities, as specified by HUD.

(p) *Expanded eligibility for FFY 1995 and prior year modernization funds.* The FFY 1995 Rescissions Act expanded the eligible activities that may be funded with CIAP or CGP assistance provided from FFY 1995 and prior FFY funds. Such activities include, but are not limited to:

(1) New construction or acquisition of additional Indian housing units, including replacement units;

(2) Modernization activities related to the Indian housing portion of housing developments held in partnership, or cooperation with non-Indian housing entities; and

(3) Other activities related to Indian housing, including activities eligible under the Urban Revitalization Demonstration (HOPE VI).

#### **§950.610 Modernization and energy conservation standards.**

All improvements funded under this part shall:

(a) Meet the modernization standards as prescribed by HUD;

(b) Incorporate cost-effective energy conservation measures, identified in the IHA's most recently updated energy audit, conducted pursuant to part 950, subpart K;

(c) Where changing or installing a new utility system, conduct a life-cycle cost analysis, reflecting installation and operating costs; and

(d) Provide decent, safe, and sanitary living conditions in IHA-owned and IHA-operated public housing.

#### **§950.612 Force account.**

(a) An IHA may undertake the activities using force account or contract labor, including contracting with an RMC, without prior HUD approval.

(b) If the entirety of modernization activity (including the planning and architectural design of the rehabilitation) is administered by the RMC, the